First Nations Water Rights in British Columbia

A Historical Summary of the rights of the Tlatlasikwala First Nation

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WATER MANAGEMENT BRANCH

FIRST NATIONS WATER RIGHTS IN BRITISH COLUMBIA:

A Historical Summary of the rights of the Tlatlasikwala First Nation

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Gary Robinson
Project Manager
Water Management Branch

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FIRST NATIONS WATER RIGHTS REPORT

BAND: Tlatlasikwala Band

ADDRESS: PO Box 270, Alert Bay, BC, V0N 1A0

CHIEF: Tom Wallace

PHONE: (250) 974-2000 **FAX:** (250) 974-2010

AFFILIATION: Kwakiutl District Council, Whe-La-La-U Area Council

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LOCATION:

The Tlatlasikwala Band occupy 3,445.6 hectares on the northwestern shores of Vancouver Island, northwest of the municipality of Port Hardy. The land area is divided between 6 reserves:

Glen-gla-ouch 5	Hope Island 1	Nahwitti 4
Ouchton 3	Semach 2	Wakems 6

Of the 6 reserves, water rights have been allocated to only one:

- Hope Island No. 1: a 3, 445.6 hectare reserve located immediately north of Vancouver Island.

The most recent population figures compiled by the Ministry of Finance report that the Tlatlasikwala Band has a population of 2 living on reserve, and 34 living off-reserve. The Bands total registered population is reported as 36.

The sic reserves of the Tlatlasikwala Band occur in the Coastal Western Hemlock Biogeoclimatic Zone, at sea level. The zone is characterized by abundant rainfall and mild temperatures, which produce some of the most productive forests in Canada. The climate consists of average daily temperatures which range from lows in the order of 5 degrees centigrade in January to highs of 16 degrees centigrade in July. Annual rainfall totals for the are average between 100 and 250 centimetres.

Water courses of significance which are located on Tlatlasikwala Band lands include:

1. **Lease Creek**: flows east through Hope Island Reserve No. 1 and drains into Bull Harbor.
2. **Wilman Brook**: located in the eastern portion of Hope Island. Wilman Brook drains into Bull Harbor.

WATER ALLOCATIONS:

There are no records of water allocations to the Tlatlasikwala Band from either the Indian Reserve Commission or the Lieutenant Governor-in-Council (by Order-in-Council).

Water licenses have been issued appurtenant to parcels occurring within the Hope Island Reserve; one license is currently registered to the Band.

HISTORY, CURRENT STATUS AND NOTES:

The history of water rights, the current status of rights, and notes for the Tlatlasikwala Band with respect to Lease Creek and Wilman Brook are as follows:

Lease Creek:

History:

Jul 20, 1937 — In response to an application submitted by the Standard Oil Company of British Columbia, the Comptroller of Water Rights issued Conditional Water License 13355. The license was assigned a precedence date of May 3, 1937 and authorizes the diversion of 2,000 gallons of water a day from Lease Creek for domestic purposes. The appurtenant lands were specified as 'Block A, Hope Islands Reserve and Lot 741, Rupert District.

Feb 15, 1939 — Based on the extent to which rights authorized under Conditional License 13355 were exercised, the Comptroller issued Final Water License 10476 in substitution. The license was given a precedence date of May 3, 1937 and authorizes the diversion of 2,000 gallons of water per day for domestic purposes on Block A, Hope Island Reserve and Lot 471, Rupert District.

Jan 31, 1977 — A letter was received from Chevron Canada Limited (formerly Standard Oil Company of British Columbia)which stated that they wished to cancel Final Water License 10476, as the associated plant was no longer utilized.

Current Status:

There are currently no licenses active on Lease Creek.

The Water Survey of Canada has no records of streamflow on Lease Creek. No other sources of current water availability were determined over the course of this study.

Notes:

1. Water rights allocated on Hope Island Reserve No. 1 were lost when the lessee "Chevron Oil Company Limited" abandoned Final Water License 10476. There is no indication if the Band was notified or consulted with regard to the abandonment.

Wilman Brook:

History:

Aug 3, 1964	In response to an application made by Tulloch-Western Fisheries Limited, the Comptroller of Water Rights issued Conditional Water License 29077. The license was assigned a precedence date of March 13, 1963 and authorizes the diversion of 3,000 gallons of water per day from Wilman Brook for industrial (ice plant) purposes. The appurtenant lands are defined as 'Lot 1, Hope Island Reserve No. 1, Rupert District'.
May 11, 1965	A letter was received from the legal advisor to Blaine Meyers Fisheries Limited. The letter advised that Conditional Water License 29077, currently registered to Tulloch-Western Fisheries, should be re-registered in the name of Blaine Meyers & Company Limited, as the company had been reorganized and re-named.
Jan 14, 1972	Conditional License 29077 was transferred to BC Packers Limited.
Mar 7, 1979	A record of abandonment for Conditional License 29077 was filed by BC Packers Ltd., as they were no longer leasing the appurtenant lands.

May 4, 1979 The Comptroller of Water Rights sent a letter to the Nuwitti Indian Band (currently known as the Tlatlasikwala Band) which stated that Conditional License 29077 was appurtenant to lands located within the boundaries of Hope Island Reserve No. 1. As the rights authorized under Conditional License 29077 had been abandoned by the lessee's of the appurtenant lands, BC Packers Ltd., the rights were available for use by the Band.

No abandonment or confirmatory correspondence was received by the Band. The license is currently registered in the name of the Tlatlasikwala Band.

Current Status:

Conditional Water License 29007 is currently the only active license on Wilman Brook. It is registered to the Tlatlasikwala Band.

The Water Survey of Canada has no records of streamflow on Wilman Brook. No other current sources of water availability were located over the course of this study.

Notes:

1. There is no additional information with respect to the rights of the Tlatlasikwala Band on Wilman Brook.

OTHER INFORMATION:

Groundwater Records:

A review of well records maintained by the MELP - Groundwater Section found that no wells have been reported on any of the Tlatlasikwala Reserves.

As provision of well information to the Groundwater Section is voluntary, this review should not be assumed to be complete.

Alternate Water Sources:

Currently, because there are no municipal water systems in the proximity of the Tlatlasikwala Band reserves, there appears to be limited alternated sources of supply.

Summary of Water Rights							
Tlatlasikwala Band							
Water Source	**Priority Date**	**Reserve Name**	**File No.**	**Document Type**	**Status**	**License PUC/MOD & OIC Allotments**	**Comments**
Lease Creek	1937/05/03	Hope Island #1	127790	CL 13355	Superceded	2,000 GAD/Domestic	**Registration**: CL 13355 issued in name of lessee ***Standard Oil Company of BC Ltd***.
Lease Creek	1937/05/03	Hope Island #1	127790	FL 10476	Abandoned	2,000 GAD/Domestic	**Abandonment, Jan 31/1977**: Unknown whether Band was consulted/notified.
Wilman Brook	1963/03/13	Hope Island #1	248671	CL 29077	Current	3,000 GAD/Industrial (ice plant)	**Registration**: Originally issued to ***Tulloch-Western Fisheries Ltd***.; abandoned by BC Packers Ltd. in 1979 -- rights transferred to ***Tlatlasikwala Band***.

LEGEND:

License Types (Document Types)
CL: Conditional License
FL: Final License
Z: Application

Mechanisms for Allocation (Document Type)
OIC: Order-in-Council (as issued by the Lieutenant Governor in Council)
MOD: Minute of Decision (as recorded under the Indian Reserve Commission)
IRC: Indian Reserve Commission
AGBC: Attorney Generals Office of BC (followed by File #)

Allotment Units
GAD: Gallons a day
AF: Acre feet
CFS: Cubic feet per second

W.R.B. 1002—SM-1038-3050

PROVINCE OF BRITISH COLUMBIA.

WATER RIGHTS BRANCH.

DEPARTMENT OF LANDS.

CONDITIONAL WATER LICENCE.

Standard Oil Company of British Columbia Limited of Vancouver, B. C., is hereby authorized to divert and use water as follows:—

(a.) The source of the water-supply is Lease creek, tributary of Bull Harbour.

(b.) The point of diversion is located as shown on the attached plan.

(c.) The date from which this licence shall have precedence is 3rd May, 1937.

(d.) The purpose for which the water is to be used is domestic.

(e.) The maximum quantity of water which may be diverted is 2000 gallons a day and such additional quantity as the District Engineer may from time to time determine should be allowed for losses.

(f.) The period of the year during which the water may be used is the whole year.

(g.) The land upon which the water is to be used and to which this licence is appurtenant is Block "A", Hope Island Indian Reserve and Lot 741, Rupert District

(h.) The works for the diversion and carriage of the water are diversion dam and pipe as shown on the attached plan.

(i.) and shall be commenced on or before the 30th day of September 1937 and shall be completed and the water beneficially used on or before the 31st day of December 1938.

Superseded by Final Licence 10476

Mapped on A Map 32 (E-S)

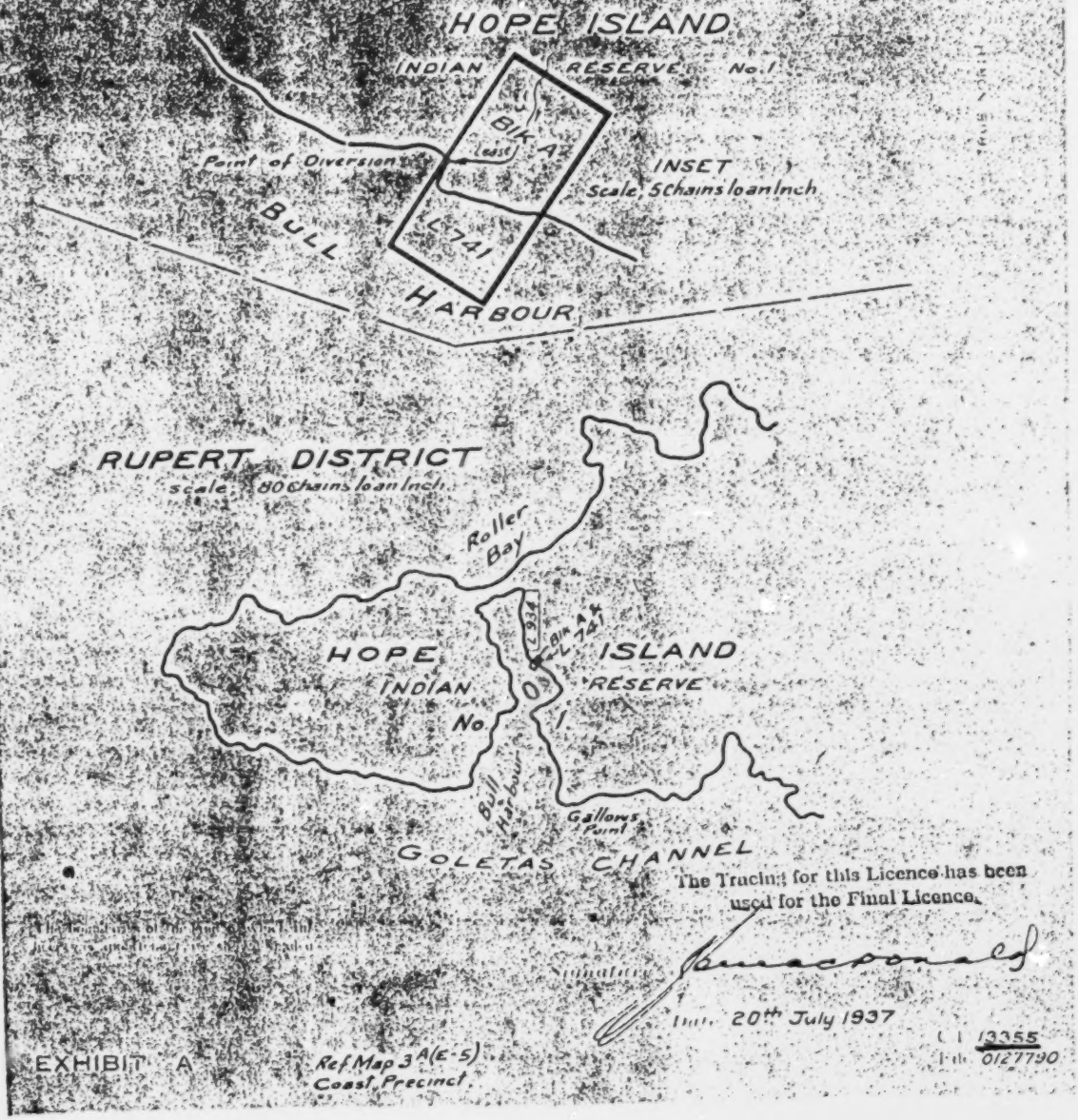
Comptroller of Water Rights.

File No. 0127790 Date issued July 20, 1937. Licence No. 13355

British Columbia.

To accompany Conditional Licence No. 13355

VANCOUVER WATER DISTRICT.



The Tracing for this Licence has been used for the Final Licence.

Date 20th July 1937

C.L. 13355
File 0127790

EXHIBIT A

Ref Map 3A(E-5)
Coast Precinct.

WATER RESOURCES SERVICE
WATER RIGHTS BRANCH

DEPARTMENT OF LANDS, FORESTS, AND WATER RESOURCES

THE PROVINCE OF BRITISH COLUMBIA—WATER ACT

CONDITIONAL WATER LICENCE

Tulloch-Western Fisheries Ltd. of c/o Wm. L.C. Wallace, Receiver and Manager, Suite 103-1111 West Georgia, Vancouver 5, B.C.

is/are hereby authorized to divert and use water as follows:—

(*a*) The source(s) of the water-supply is/are Wilman Brook.

(*b*) The point(s) of diversion is/are located as shown on the attached plan.

(*c*) The date from which this licence shall have precedence is 13th March, 1963.

(*d*) The purpose for which the water is to be used is industrial (ice plant).

(*e*) The maximum quantity of water which may be diverted is 3000 gallons a day,

and such additional quantity as the Engineer may from time to time determine should be allowed for losses.

(*f*) The period of the year during which the water may be used is the whole year.

(*g*) The land upon which the water is to be used and to which this licence is appurtenant is

Lot 1, Hope Island Indian Reserve No.1, Rupert District.

(*h*) The works authorized to be constructed are concrete dam (4 feet high x 15 feet long), pump and pipe,

and they shall be located approximately as shown on the attached plan.

(*i*) The construction of the said works shall be commenced on or before the 31st day of January, 1965, and shall be completed and the water beneficially used on or before the 31st day of December, 1966.

ENTERED ON
Map No. 92L/NW (E.)
By R.M. F.B.

Gordon L.A. Kidd,
Comptroller of Water Rights.

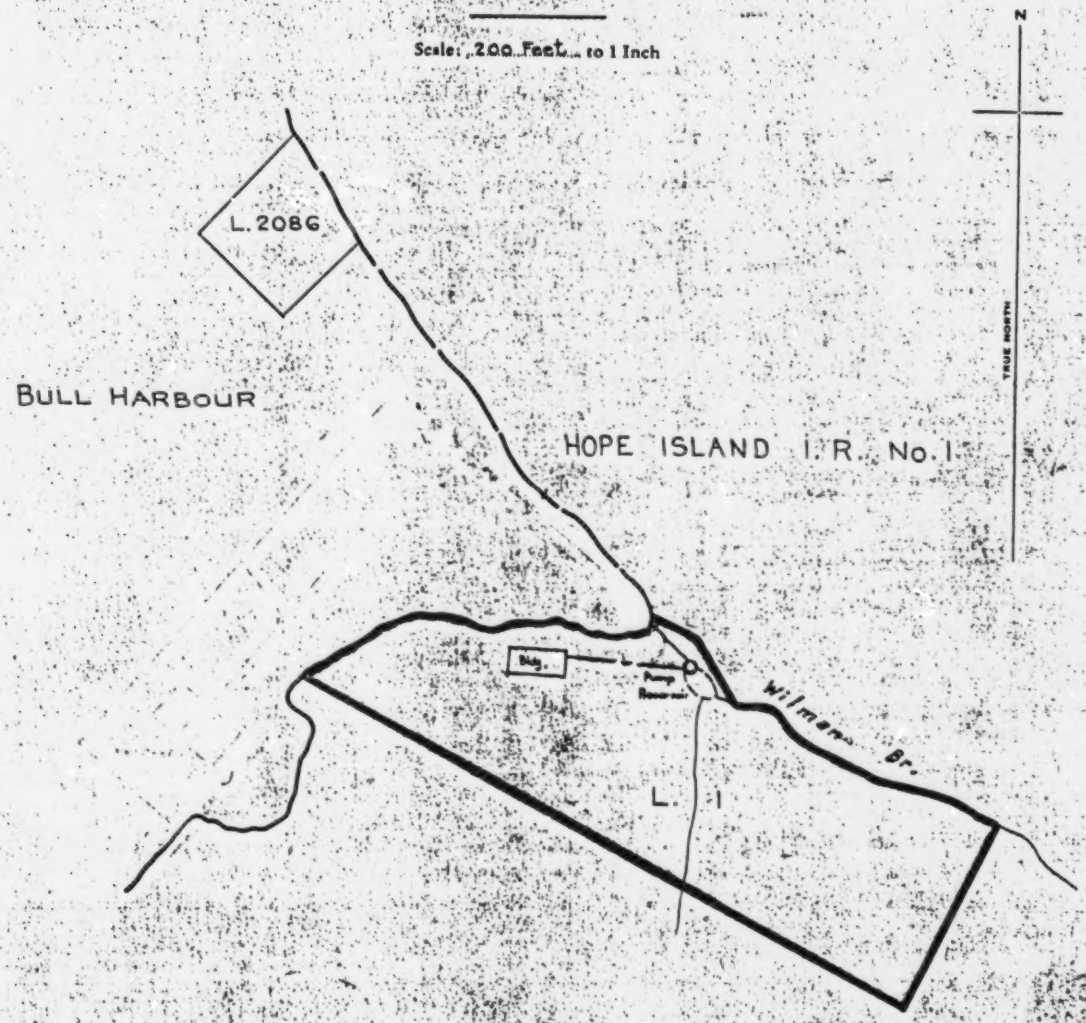
FILE No. 0248671 Date issued: 3 August 1964 CONDITIONAL LICENCE No. 29077

British Columbia

NANAIMO WATER DISTRICT

RUPERT DISTRICT

Scale: 200 Feet to 1 Inch



LEGEND

Point of Diversion
Ref Map } 92 L/13-W (e)

Pipeline

The boundaries of the land to which this licence is appurtenant are shown thus:

Signature

Date 3 Aug 1964

C.L. 29077
File 0248671

EXHIBIT "A"

Quatsino Precinct

W.R.B. 1028—8M-1197-9222

PROVINCE OF BRITISH COLUMBIA.

WATER RIGHTS BRANCH.

DEPARTMENT OF LANDS.

FINAL WATER LICENCE.

Standard Oil Company of British Columbia, Limited, of Vancouver, B.C., is

hereby authorized to divert and use water as follows:—

(a.) The source of the water-supply is Lease creek, tributary of Bull Harbour.

(b.) The point of diversion is located as shown on the attached plan.

(c.) The date from which this licence shall have precedence is 3rd May, 1937.

(d.) The purpose for which the water is to be used is domestic.

(e.) The maximum quantity of water which may be diverted is 2,000 gallons a day, and such additional quantity as the District Engineer may from time to time determine should be allowed for losses.

(f.) The period of the year during which the water may be used is the whole year.

(g.) The land upon which the water is to be used and to which this licence is appurtenant is Block "A", Hope Island Indian Reserve, and District Lot 741, Rupert District,

(h.) The works for the diversion and carriage of the water are diversion dam and pipe. as shown on the attached plan.

(i.) This licence is issued in substitution of Conditional Water Licence No. 13355.

ABANDONED
11-2-77

ENTERED ON
Map No. 3A(E-5)
By W.W.

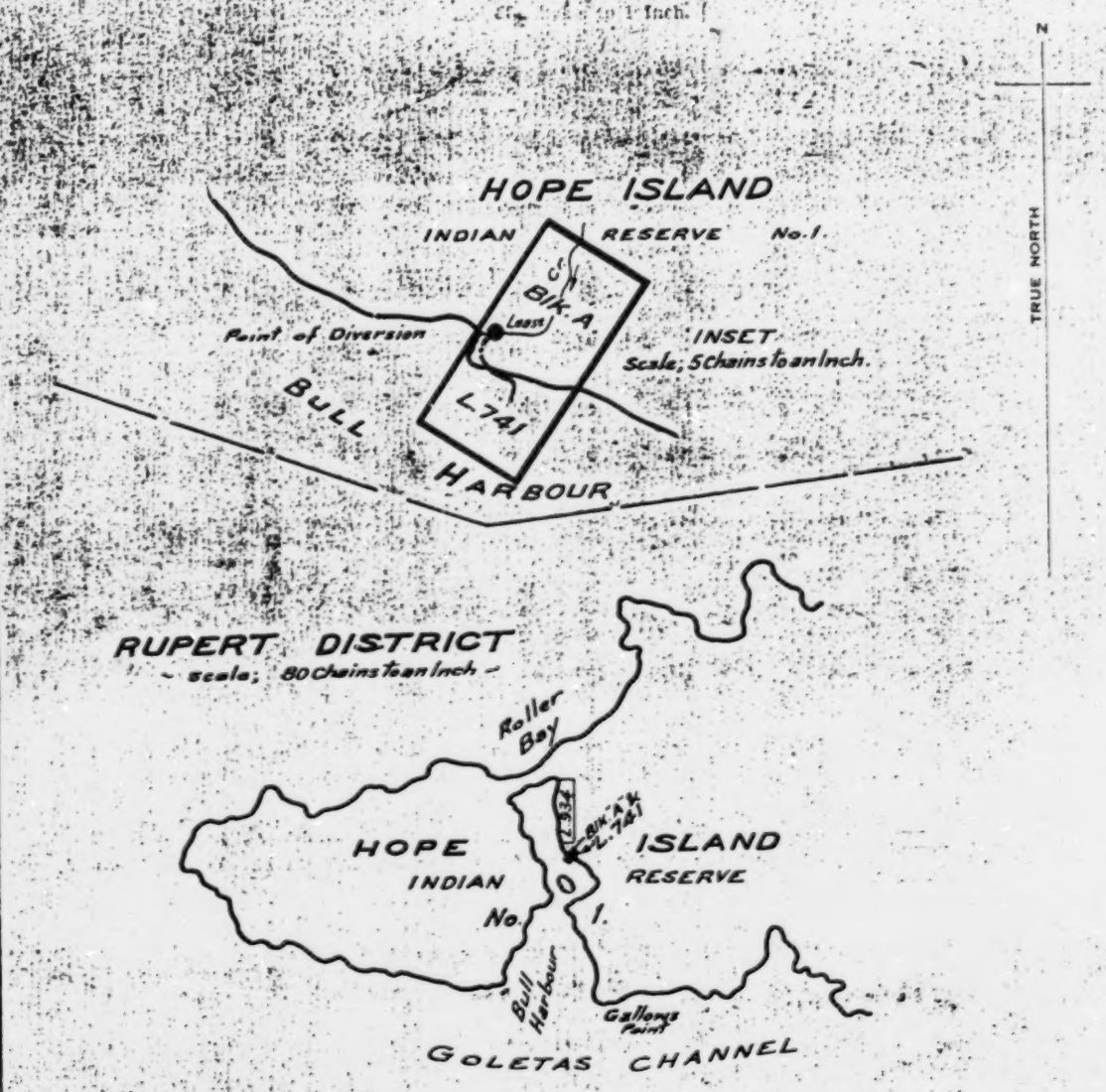
E. Davis
Comptroller of Water Rights.

File No. 0127790. Date issued 15th February, 1939. Licence No. 10476

British Columbia.

To accompany { Final Licence No. 10276 for
Conditional Licence No. 13355

NANAIMO ~~VANCOUVER~~ WATER DISTRICT.



The boundaries of the land to which this licence is appurtenant are shown shaded.

Signature E. Davis

Date 15th Feb, 1939

F.L. 10276 for C.L. 13355

File 0127790

92 L/13 W (e)

EXHIBIT "A"

Ref. Map 3 Sheets)

Precinct.

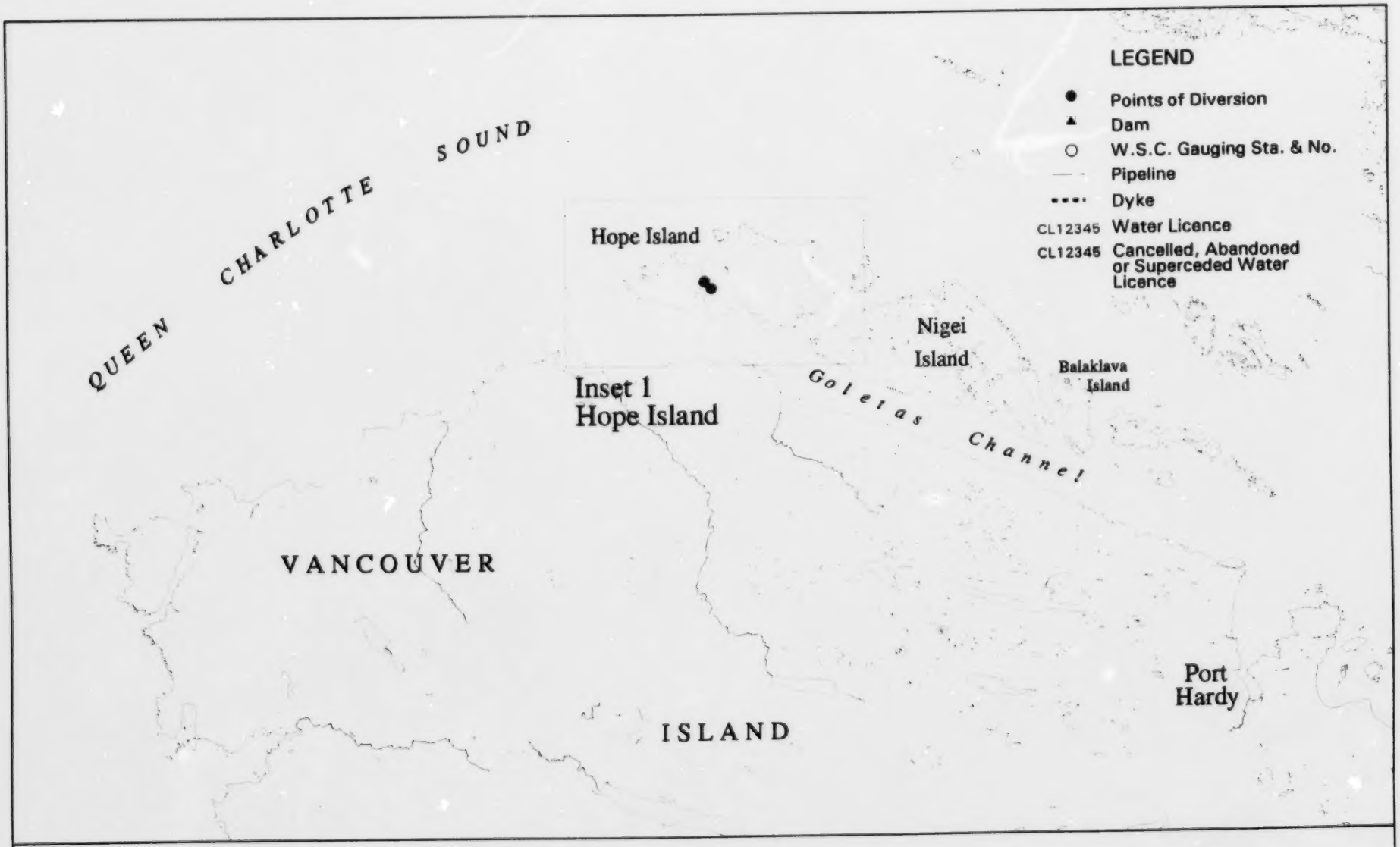
Quatsino

Stream Register Report Water Licence Information System

Report Requested By : CROCHA
Date Report Requested : 1996/06/20 11:56
Report Sorted By : Source Gazetted - Priority Date - Licence Number
Selection Criteria
START POINT : PD31333 - 92L/13W(e) A
END POINT : S015937 - Wilson Brook on Salt Water

Priority YYYY/MM/DD	Licence Number	File Number	Appurtenancy	Licensee	PUC	Quantity/Units	Term Start	Term End	Licence Comments	Process Status
	Source		WR Map	POD RED POD Comments					Proc	
1963/03/13	C029077	0248671	L 1 OF I R 81 (HOPE I) DIST	TLATLASIKWALA INDIAN BAND 978-632-7058 BOX 150 ALERT BAY BC V0N1A0	PROCE	3,000.00 GD	Jan 01	Dec 31	ICE PLANT FORMERLY NUWITTI INDIAN BAND	
	Wilson Brook		WR92L/13W(e)	A N					178 MAN - SAYWARD	

---------- Total of 1 Licence Reported ----------



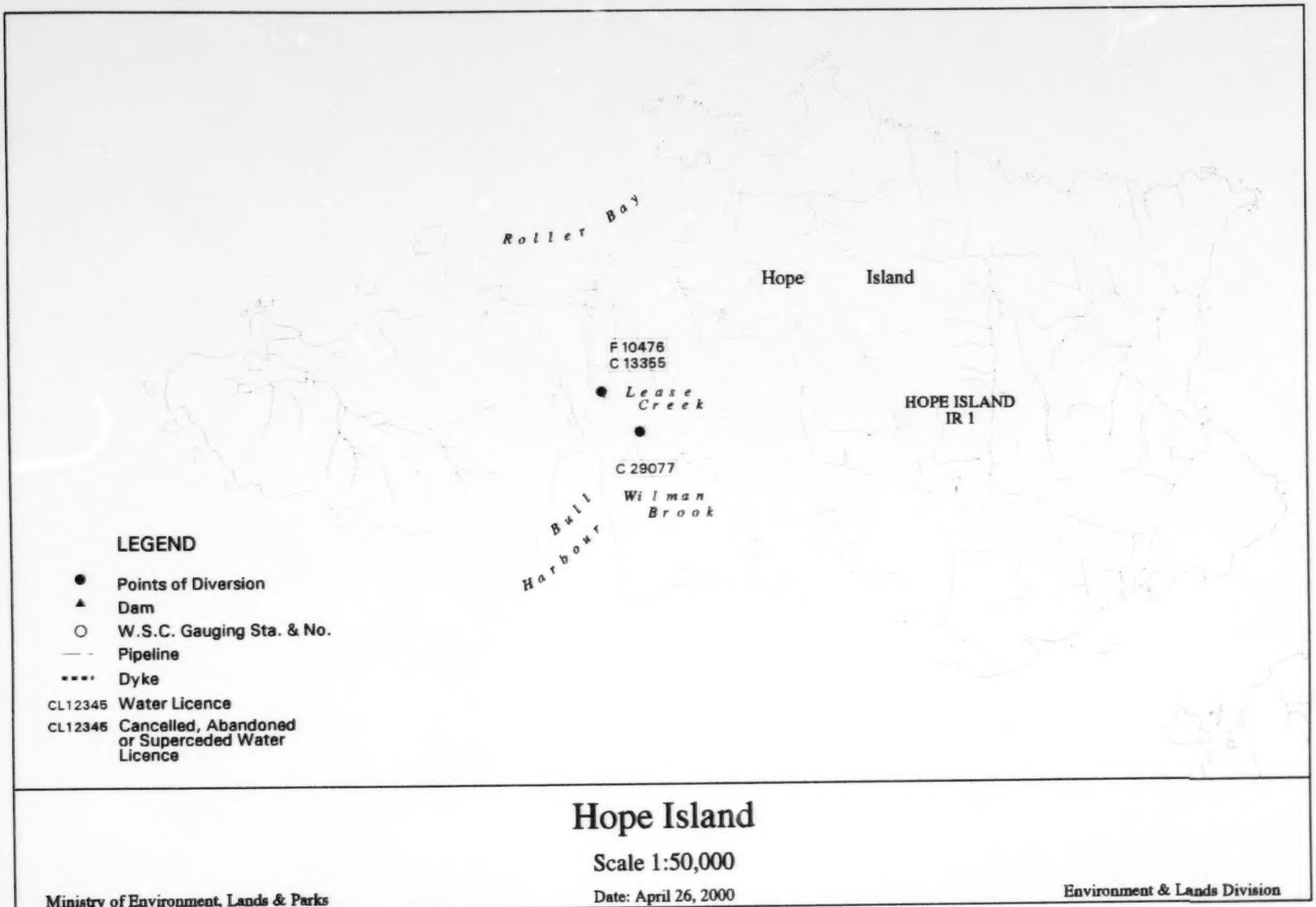
Tlatlasikwala

Scale 1:300,000

Ministry of Environment, Lands & Parks

Date: April 26, 2000

Environment & Lands Division



Hope Island

Scale 1:50,000

Ministry of Environment, Lands & Parks

Date: April 26, 2000

Environment & Lands Division